IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: - 21.06.2006

Coram:-

The Hon'ble Mr. Justice P.SATHASIVAM
and
The Hon'ble Mr. Justice V.DHANAPALAN

Habeas Corpus Petition No.308 of 2006

Jareena ... Petitioner

vs.

1. The State of Tamil Nadu
Rep. by its Secretary to Government,
Prohibition and Excise XVI Department,
St. George Fort, Chennai-600 009.

2. District Magistrate and
District Collector,
Thiruvannamalai District,
Thiruvannamalai. ... Respondents

Petition under Article 226 of the Constitution of India for the issuance of Writ of Habeas Corpus to direct the respondents to produce the body of detenu Abdul Rahuman, S/o.Shabi Bagh, who is detained in the Central Prison, Vellore, before Court, pass an order to call for the detention order imposed on the petitioner vide D.O.No.12/2006 C-2, dated 27.02.2006, passed by the second respondent, set aside the same and set the detenu at liberty.

For Petitioner : Ms.L.Poompavai
For Respondents : Mr.M.Babu Muthu Meeran,
Addl. Public Prosecutor.

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O R D E R

(Order of the Court was made by P.SATHASIVAM, J.)

The petitioner challenges the detention order, dated 27.02.2006, detaining her brother by name Abdul Rahuman as 'Bootlegger' as contemplated under the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Slum Grabbers and Video Pirates Act, 1982 (Tamil Nadu Act 14 of 1982).

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2. Heard learned counsel for the petitioner as well as learned Additional Public Prosecutor for the respondents.

3. At the foremost, learned counsel for the petitioner submitted that there was inordinate delay in disposal of the representation of the detenu.

With reference to the said contention, the particulars furnished by the learned Additional Public Prosecutor show that the representation of the detenu was received by the Government on 24.03.2006, remarks were called for on 27.03.2006 and the same were received from the Sponsoring Authority on 05.04.2006. Thereafter, File was dealt with by the Under Secretary and Deputy Secretary on 06.04.2006. Finally, the Minister for Prohibition and Excise passed orders on 07.04.2006. Thereafter, the rejection letter was prepared on 10.04.2006. The said letter was sent to the Central Prison for service on 12.04.2006 and served to the detenu on 15.04.2006.

4. Learned counsel appearing for the petitioner submitted that though, on receipt of the communication from the Government, the Collectorate called upon the Sponsoring Authority to furnish the remarks even on 27.3.2006, the Sponsoring Authority forwarded the remarks only on 31.03.2006 and the same were sent to the Government on 03.04.2006. It is the claim of the counsel for the petitioner that the Sponsoring Authority is not justified in taking three days' time in forwarding the remarks to the Collectorate. We verified the details furnished. As rightly pointed out, the Sponsoring Authority, though received proper communication from the Collectorate even on 27.3.2006, forwarded the remarks only on 31.03.2006. In the absence of proper explanation by the Sponsoring Authority and of the fact that he possessed all the required details with regard to the detention order passed by the Detaining Authority, we are of the view that the time taken by him is on the higher side, which ultimately prejudiced the detenu in considering his representation effectively. On this ground, the impugned order of detention is quashed.

5. Accordingly, the Habeas Corpus Petition is allowed and the impugned order of detention is set aside. The detenu is directed to be set at liberty forthwith from the custody unless he is required in some other case or cause.

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JI.

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

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To

1. The Secretary to Government, Prohibition and Excise Department,
Fort St. George, Chennai 600 009.

2. The District Magistrate & Dt.Collector, Tiruvannamalai.

3. The Superintendent, Central Prison, Vellore.
(In duplicate for communication to detenu)

4. The Joint Secretary to Government, Public (Law and Order)
Fort St. George, Chennai-9.

5. The Public Prosecutor, High Court, Madras.

TEJ (CO)
RSM/3.7.2006

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